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IN THE

Supreme Court of the United States

OCTOBER TERM, 1939

No. 582

THE PEOPLE OF PUERTO RICO,
Petitioner,

vs.

RUBERT HERMANOS, INC.,
Respondent.

ON PETITION FOR WRIT OF CERTIORARI TO THE CIRCUIT COURT OF APPEALS FOR THE FIRST CIRCUIT

BRIEF OF RESPONDENT IN OPPOSITION

HENRI BROWN,
Counsel for Respondent.

JAIME SIFRE, JR.,
Of Counsel.

January , 1940.

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OCTOBER TERM, 1939

No. 582.

THE PEOPLE OF PUERTO RICO,
Petitioner,

vs.

RUBERT HERMANOS, INC.,
Respondent.

BRIEF IN OPPOSITION TO PETITION.

Statement.

The People of Puerto Rico, by its Attorney General, instituted proceedings of *Quo Warranto* against Respondent by original complaint or information in the Supreme Court of Puerto Rico, which was authorized to be filed by order of the Supreme Court of January 28, 1936. Thereafter petitioner filed Notices of *lis pendens* in the registries of property in which the real property of the Respondent is inscribed. The proceeding was instituted under the authority of two statutes enacted at the Special Session of the Legislature of Puerto Rico in the year 1935, namely Act 33 approved July 22nd and Act 47 approved August 7th of that year. Respondent demurred to the amended complaint upon the ground that both of said acts were invalid; (1) because *ultra vires* in that they amended the Organic Act of Puerto Rico by attaching penalties

and forfeitures and conferred jurisdiction upon the Supreme Court of Puerto Rico of suits for penalties and forfeitures so attached to and arising under a law of the United States, and (2) because both acts violated the provisions of the Organic Act of Puerto Rico as respects entitling, amendment, re-enactment and publication at length; that Act No. 47 is also invalid as *ex post facto* by reason of the penalties and forfeitures therein contained (R. 51-58). The demurrers were overruled on the authority of prior decisions of the Supreme Court overruling pleas and demurrers to the jurisdiction based upon the same grounds of alleged invalidity of Acts 33 and 47 in the *Quo Warranto* proceeding entitled "The People of Puerto Rico, Petitioner, *vs.* Fajardo Sugar Company of Porto Rico, *et als.*". The opinions in the Fajardo Sugar Company case are printed in Spanish in 50 D. P. R. 163 and 51 D. P. R. 876. The corresponding volumes of these reports of the Supreme Court in English have not as yet been published. Translations are printed in the Appendix, pages 19-37, and R. 68-82.

Respondent again challenged Act 47 as *ex post facto* in and by a motion to cancel Notices of *lis pendens* in the Registry of Property (R. 59-65) which was overruled by an order likewise supported by the decision of the court of a similar motion made in *People of Puerto Rico* vs. *Fajardo Sugar Company, et als.* (R. 82-87). In passing upon pleas, demurrers and motion to cancel notices of *lis pendens* the Supreme Court of Puerto Rico declined to decide "for the present" whether the penalties and forfeitures contained in Act 47 made the act an *ex post facto* law. Respondent answered the amended complaint (R. 89-98).

Upon the trial at the close of plaintiff's case, Respondent offered no evidence in support of the allegations of its

Answer but moved to dismiss upon the same jurisdictional grounds raised by its demurrers and motion to cancel *lis pendens*. The motion to dismiss was overruled and the Supreme Court of Puerto Rico entered judgment in favor of the People of Puerto Rico upon the following finding: "that the defendant corporation, Rubert Hermanos, Inc., is engaged in agriculture and is guilty of owning and controlling 12,188 acres of land in violation of the provisions of Joint Resolution 23 of the Congress of the United States (31 Stat. at Large, 716, U. S. C. A. Title 48, Sec. 752), of Section 39 of the Organic Law of Puerto Rico and of its own Articles of Incorporation by all of which provisions the said defendant corporation is expressly limited and restricted to the ownership and control of lands not in excess of 500 acres".

From this judgment the Respondent appealed to the Circuit Court of Appeals for the First Circuit, assigning as error the decision of the Supreme Court sustaining its jurisdiction and the validity of the statutes upon which same was based, for the same reasons and upon the same grounds set out in its demurrers to the complaint and motion to cancel notices of *lis pendens* (R. 306-310). The Circuit Court of Appeals entered judgment reversing the judgment of the Supreme Court of Puerto Rico, "but without prejudice to future proceedings under valid statutes, or in the Federal Court based on a violation of Section 39 of the Organic Act or 752 Title 48 U. S. C.". The decision of the Circuit Court was by a divided court. The majority and minority opinions are printed at pages 315 to 322 of the Record. The Circuit Court of Appeals like the Supreme Court of Puerto Rico in deciding the appeal did not pass upon the question of the *ex post facto* character of Act 47 by reason of the penalties and forfeitures therein contained, which was raised by assignments 13 and 14 (R. 309).

Questions Presented.

1. The jurisdiction of the Supreme Court of Puerto Rico in *quo warranto* proceedings rests exclusively on Act 33 of the Legislature of Puerto Rico approved July 22, 1935 and Act 47 of the Legislature of Puerto Rico approved August 7, 1935. If these statutes are invalid the Supreme Court of Puerto Rico is without jurisdiction in this case.

This question subdivides into several questions raised by the various grounds of attack upon the statute, and may be summarized as follows:

(a) Do Acts 33 and 47 amend a law of the United States?

(b) Has the Legislature of Puerto Rico power to amend a law of the United States?

(c) Can the Legislature of Puerto Rico confer jurisdiction upon the Supreme Court of Puerto Rico of a suit for penalties and forfeitures incurred under a law of the United States?

(d) Do the forfeiture and penalty provisions of Act 47 violate the provisions of the Organic Act of Puerto Rico prohibiting the enactment of *ex post facto* laws?

(e) Do Acts 33 and 47 violate the provisions of the Organic Act of Puerto Rico as to entitling, amendment and adoption by reference of statutes?

Petitioner, however, maintains that two other questions are presented, namely:

(1) Whether the Circuit Court of Appeals should have disturbed the decision of the Supreme Court of Puerto Rico treating the allegations of the complaint as sufficient in view of the established rule of respect to be accorded to the territorial Supreme Court construing territorial laws and rules of pleading and procedure?

(2) Should the *semi quasi* sovereign government of Puerto Rico be deemed to be estopped from enforcing its statute limiting the land-holding powers of its domestic agricultural corporations because of delay or lack of action by former insular executive officials or legislators?

In Respondent's view of the case neither of the last two questions are here involved.

Respondent's Position.

Petitioner states that the case presents primarily the question of the power of the Legislature of Puerto Rico to effectuate the purposes of the Congress to limit the land holdings of agricultural corporations in the Island to 500 acres. The record, however, discloses that the Respondent has never questioned the power of the Legislature to enact legislation to carry into effect the provisions of the Joint Resolution and the Organic Act limiting the land holdings of agricultural corporations. In the majority opinion of the Circuit Court of Appeals the contention of the Respondent is stated as follows (R. 322): "The appellant does not deny the power of the Legislature of Puerto Rico to confer jurisdiction upon the Supreme Court of Puerto Rico, or other insular courts, of *quo warranto* proceedings. Its contention, however, is that the power of the Puerto Rican Legislature to confer original jurisdiction on the Supreme Court of Puerto Rico in such cases is limited to matters falling within its legislative ambit." It was never suggested in the Supreme Court of Puerto Rico that the amended complaint set out as a ground for *quo warranto* that Respondent was violating a statute of Puerto Rico, nor did the Supreme Court of Puerto Rico at any time hold that the amended complaint

charged the violation of any statute of Puerto Rico, and finally the judgment of the Supreme Court of Puerto Rico in this case was not based upon a finding that the Respondent had violated a statute of Puerto Rico. This contention was raised for the first time by petitioner in the Circuit Court of Appeals and constitutes a departure from the theory upon which the case was tried and decided in the Supreme Court of Puerto Rico. For these reasons Respondent believes that the argument based upon the supposed reversal of the decision of the Supreme Court on this question cannot be raised here. Nor do the majority judges of the Circuit Court of Appeals rest their decision upon the ground of estoppel. The opinion does not hold that the People of Puerto Rico are estopped from bringing this proceeding by reason of the laches or delay in instituting the proceeding. Properly construed the majority decision holds that the provisions of Act 47 providing for forfeiture and confiscation of land for past violations should not be given a retroactive application, but that if it is proposed to take land such purpose should be effected under the law of eminent domain. The statement in the majority opinion of the Circuit Court of Appeals upon which the question of estoppel is proposed by Petitioner, should be read in the light of the contention of Respondent before that Court that Petitioner proposed to enforce the forfeiture and penalties provided by Act 47 if the judgment of the Supreme Court of Puerto Rico were allowed to stand, and the reasons assigned by Respondent before that Court for such contention.

Statutes.

Parts of the statutes purporting to confer jurisdiction of *quo warranto* proceedings on the Supreme Court of Puerto Rico are copied in the appendix to Petitioner's

brief. A pertinent part of Section 2 of Act No. 47 cited in the majority opinion of the Circuit Court of Appeals is, however, omitted; it reads:

> "When any corporation by itself or through any other subsidiary or affiliated entity or agent is unlawfully holding, under any title, real estate in Puerto Rico, The People of Puerto Rico may at its option, through the same proceedings institute in its behalf the confiscation of such property, or the alienation thereof at public auction within a term of not more than six months counting from the date on which final sentence is rendered. In every case alienation or confiscation shall be through the corresponding indemnity as established in the law of eminent domain."

Act No. 47 was introduced in the legislature by a bill in the Spanish language and the Spanish text therefore governs (Civil Code of Puerto Rico, Section 13). The English text of Section 6 of the Act, reading:

> "Whenever in the opinion of the court it is satisfactorily established that the corporation or corporations have performed acts or exercised rights not conferred by law, or in violation of express provisions thereof, the judgment entered shall, in case the defendant is a domestic corporation decree the dissolution thereof and the prohibition to continue doing business in the country; and in the case of a foreign corporation, the nullity of all acts done and contracts made by the defendant corporation or entity, and in addition, said judgment shall decree the cancellation of every entry or registration made by the said corporations in the public registries of Puerto Rico".

is incorrectly translated. It should read:

> "Whenever in the opinion of the Court it is satisfactorily established that the corporation or corporations have performed acts or exercised rights not con-

ferred by law, or in violation of the express provisions thereof, the judgment entered shall decree the dissolution of the defendant if it be a domestic corporation, the prohibition to continue to do business in the country if it be a foreign corporation, the nullity of all acts or contracts realized by the defendant corporation or entity."

Argument.

I

Petitioner maintains that Acts Nos. 33 and 47 of the Special Session of 1935 of the Legislature of Puerto Rico are valid statutes because neither of such statutes amends an Act of Congress and that both Acts incorporate by reference the provisions of Section 3 of the Joint Resolution No. 23 of the 56th Congress, approved May 1, 1900, which forms a part of the present Organic Act of Puerto Rico, a form or method of legislation that Petitioner considers that the Legislature of Puerto Rico may properly employ.

Petitioner further contends that the Supreme Court of Puerto Rico is a "Court of the United States" and that the Legislature of Puerto Rico can validly vest that court with jurisdiction in cases of violation of these federal laws named in these insular jurisdictional statutes.

All of the Judges of the Circuit Court of Appeals that took part in the decision of this case were agreed that Acts Nos. 33 and 47 did amend the Joint Resolution of Congress above mentioned which now forms a part of the Organic Act of Puerto Rico.

Judge PETERS in his dissenting opinion does not question the principles of law enunciated in the majority opinion. He says: "If Act No. 47 contained nothing but a penalty for a violation of a federal statute, it would be

clearly invalid for the reasons and on the authorities stated in the above opinion."

The authorities cited in the majority opinion of the Circuit Court of Appeals in support of the holding that these acts amend the federal law mentioned declare and apply well and long established principles of statutory construction as to which there is no conflict.

Additional cases in point are:

Posadas vs. *National City Bank*, 296 U. S. 497, 501;
In re Buelow, 98 Fed. 87;
People vs. *Buffalo Cold Storage Company*, 185 N. Y. Supp. 790.

That the Legislature of Puerto Rico can adopt by reference in a statute that it enacts provisions of the Organic Act of Puerto Rico addressed to the Legislature itself and fixing and limiting its own powers is manifestly an untenable contention. Only Congress has the power to establish a civil government in Puerto Rico and the Organic Act for Puerto Rico was enacted in the exercise of that power. There is nothing in either Act No. 33 or Act No. 47 that indicates any intention of the Legislature to adopt the provisions of the Organic Act referred to. Furthermore assuming that the Legislature of Puerto Rico could otherwise adopt provisions of the Organic Act by reference, this method of legislation is prohibited by the provisions of Section 34 of the Organic Act, reading:

> "No bill except general appropriation bills, shall be passed containing more than one subject, which shall be clearly expressed in its title; but if any subject shall be embraced in any act which shall not be expressed in the title, such act shall be void only as to so much thereof as shall not be so expressed.
>
> No law shall be revived, or amended, or the provisions thereof extended or conferred by reference to its title

only, but so much thereof as is revived, amended, extended or conferred shall be reenacted and published at length."

Section 256 of the Judicial Code (28 U. S. C., Sec. 371) not only vests exclusive jurisdiction in courts of the United States of all suits for penalties and forfeitures incurred under the laws of the United States but also of all crimes and offenses cognizable under the authority of the United States, of all matters and proceedings in bankruptcy, of controversies where a State is a party, and of other suits and proceedings. Of all of such suits, prosecutions and proceedings, original jurisdiction is vested in district courts of the United States by the provisions of Section 41 of Title 28 U. S. C.

Section 41 of the Organic Act of Puerto Rico confers upon the District Court of the United States for Puerto Rico jurisdiction of all cases cognizable in District Courts of the United States.

Petitioner's contention that the Legislature of Puerto Rico can validly vest jurisdiction of cases for violation of federal statutes means that the Legislature may likewise confer jurisdiction on the Supreme Court of Puerto Rico of federal crimes and offenses, bankruptcy cases; in short, of all matters of which original jurisdiction is conferred on district courts of the United States and the District Court of the United States for Puerto Rico.

By Section 40 of the Organic Act of Puerto Rico the District Court of the United States for Puerto Rico is expressly excluded from the grant of legislative powers to the Legislature of Puerto Rico.

In granting original jurisdiction to District Courts of the United States and the District Court of the United

States for Puerto Rico, of suits for penalties and forfeitures incurred under laws of the United States the Congress has specified and defined the "Courts of the United States" mentioned in Section 256 of the Judicial Code.

Any legislation by Puerto Rico impairing the jurisdiction expressly conferred on the District Court of the United States for Puerto Rico necessarily conflicts with the provisions of Sec. 40 of the Organic Act of Puerto Rico.

That the Supreme Court of Puerto Rico is not a "Court of the United States" within the meaning of Sec. 371 Title 28 U. S. C. is settled by authority. *Good* vs. *Martin*, 95 U. S. 90, 98. In *Clinton* vs. *Englebrecht*, 13 Wall. 434, 447, this court said:

> "The judges of the Supreme Court of the territory are appointed by the President under the Act of Congress but that does not make the courts they are authorized to hold courts of the United States—This was decided long since in The American Insurance Company *vs.* Canter, 1 Pet. 546, and in the later case of Benner *vs.* Porter, 9 How. 235."

The Congressional field of legislating territories into being and providing territorial forms of government, is necessarily an exclusive field of legislation which the Congress may not abdicate or delegate. Petitioner's contention that the Legislature of Puerto Rico may occupy this field and that in this respect there is no difference between an Organic Act or Territorial Constitution and any other federal Act would seem to require no answer.

Furthermore, as above stated by Acts Nos. 33 and 47 the Legislature of Puerto Rico changes or attempts to change a law addressed to it and limiting its legislative power, into a law addressed to corporations.

II

Petitioner states that neither in the answer nor anything said in defendant's motions, nothing whatever in the case, indicates any purpose or attempt to divest itself of any portion of the land that it holds in excess of five hundred acres and that in this respect the defendant-respondent puts itself into substantially the same position and attitude taken by the Pullman Company in *People* vs. *Pullman Palace Car Company*, 175 Ill. 125, 163, 165; it further states that no question of forfeiture or confiscation of land or imposition of penalties is involved.

Substantially the same statement was made in the Circuit Court of Appeals. Its reiteration here ignores the answer made by Respondent there.

Under the *quo warranto* law in force at the time Respondent was incorporated the only judgment authorized was ouster and fine or fine alone (Sec. 6 of "Act Establishing *quo warranto* proceedings" approved March 1, 1902 copied at p. 68 of Petitioner's brief).

The amendments to the *quo warranto* law effected by Act No. 47 of the Special Session of 1935 of the Legislature of Puerto Rico provided penalties and penal consequences not theretofore existing, namely: the confiscation or alienation of the lands of a defendant corporation at the option of the People of Puerto Rico at any time within six months after final judgment, the cancellation of every entry or registration made in the public registries of Puerto Rico, and the nullity of all acts done and contracts made by a defendant corporation.

Practically simultaneously with the initiation of the proceeding notices of *lis pendens* affecting all real properties of defendant were filed in the Registries of Property. Respondent attempted vainly to obtain a decision from the

Supreme Court of Puerto Rico as to the validity of those penalty provisions by demurrers attacking the same as *ex post facto* and by motion to cancel the notice of *lis pendens*. The Supreme Court declined to decide the questions raised relating to the imposition of new penalties "for the present". (*The People of Puerto Rico* vs. *The Fajardo Sugar Company of Porto Rico, et al.*, Appendix, pp. 19-37.) And never did decide them. Petitioner, in opposing the motion for cancellation of notices of *lis pendens* stated that they should remain in order that the final judgment to be rendered by the Court might be effective and executed in its entirety (R. 65).

While the notices of *lis pendens* stood Respondent could not dissolve and wind up its affairs. Until six months from the date of final judgment had expired it could not dispose of any land. And if the penalties of nullity of its contracts and cancellation of its record titles were valid and enforceable, dissolution would be an empty formality.

Respondent declared its willingness to abandon its appeal, dissolve and pay the fine and costs imposed by the judgment of the Supreme Court upon an assurance by Petitioner that no attempt to enforce the forfeitures and penalties legislated in Act No. 47 would be made. No such assurance was ever given.

III

Petitioner alleges that in any event so much of Act No. 47 is valid as vests original jurisdiction in the Supreme Court of Puerto Rico in cases of corporate violations of insular statutes. This branch of jurisdiction in cases of violations of insular statutes, it is stated, is complete in itself and wholly independent of jurisdiction based on violations of the Organic Act.

There are two answers to this contention:

First, the complaint did not base jurisdiction upon violation of any insular statute nor was the judgment of the court based upon a finding of violation of any insular statute. It was never suggested in the Supreme Court of Puerto Rico at any time that the proceeding was based upon violations of provisions of the Corporation Law of Puerto Rico or any other Puerto Rican statute. This claim was made for the first time by Petitioner in the Circuit Court of Appeals.

The theory and the only theory upon which the proceeding was prosecuted and decided in the Supreme Court of Puerto Rico was that notwithstanding the express prohibition contained in its articles of incorporation and the provisions of Joint Resolution No. 23 of the 56th Congress, First Session, approved May 1st, 1900 (U. S. C. Title 48, Section 752) Respondent owned and controlled land in excess of five hundred acres, which it applies to the planting, cultivation and harvesting of sugar cane.

Respondent believes that the rule is well settled and here applicable that the parties are confined on appeal to the theory upon which the cause was prosecuted and defended in the trial court and that questions which were not raised in the court below can not be raised in the appellate court.

4 Corpus Juris Secundum, Section 241.

The second answer is that the provisions of Act No. 47 basing jurisdiction upon a violation of the provisions of the Organic Act and the penalty provisions of an *ex post facto* character are not separable from the remainder of the Act.

Act No. 47 contains no provision that if any part of the Act is held invalid the remainder of the Act shall not be affected thereby.

This Court has repeatedly held that in the absence of such a provision the presumption arises that the legislature intends an Act to be effective as an entirety.

In *Carter* vs. *Carter Coal Co.*, 298 U. S. 238, 312, the Court said:

> "In the absence of such a provision, the presumption is that the legislature intends an act to be effective as an entirety—that is to say, the rule is against the mutilation of a statute; and if any provision be unconstitutional, the presumption is that the remaining provisions fall with it. The effect of the statute is to reverse this presumption in favor of inseparability, and create the opposite one of separability. Under the non-statutory rule, the burden is upon the supporter of the legislation to show the separability of the provisions involved. Under the statutory rule, the burden is shifted to the assailant to show their inseparability. But under either rule, the determination, in the end, is reached by applying the same test—namely, What was the intent of the lawmakers?"

A somewhat fuller statement of the rule is found in *Williams* vs. *Standard Oil Co.*, 278 U. S. 235, 241.

No showing has been made by the Petitioner to demonstrate the separability of these provisions.

On the other hand, an examination of Acts Nos. 33, 34, 47 and 48, all of which were passed at the same special session of 1935, and forming, as related legislation, parts of a general plan, will convincingly demonstrate that the legislature would not have passed the provisions of Act No. 47 upon which Petitioner now rests without the provisions vesting jurisdiction in the Supreme Court on the ground of violations of provisions of the Joint Resolution and the Organic Act and without the penalties established in the same Act.

Act No. 44 provides for the condemnation of property for works and projects forming part of the plan of economic reconstruction, one of the features of which is "the redistribution or division of lands concentrated in large estates"; the acquisition of sugar properties is authorized.

Act No. 47 makes violation of the Joint Resolution and Organic Act ground for *quo warranto*, confers jurisdiction on the Supreme Court and authorizes the condemnation or the taking of the lands of defendant corporations in the same proceeding.

Act No. 48 makes it a criminal offense to acquire lands "in violation of the provisions of Joint Resolution of Congress of the United States approved May 1, 1900". And the information or complaint in this case states that these acts declare the public policy of the People of Puerto Rico.

IV

Petitioner maintains that the allegations of the complaint of violation of insular statutes were sufficient and that in any event the judgment of the Supreme Court of Puerto Rico should not have been reversed on such a question of local pleading and procedure.

The argument on this point assumes that Petitioner contended or suggested in the Supreme Court of Puerto Rico that the complaint alleged the violation of an insular statute and that the Supreme Court so held and construed the complaint. But the Supreme Court of Puerto Rico did not so hold nor did Petitioner propose such a theory in the trial court. The record is barren of any such suggestion.

V

Petitioner states that the quasi sovereign government of Puerto Rico cannot be estopped from enforcing its stat-

utes limiting the land-holding powers of its domestic agricultural corporations because of delay or lack of action by former insular executive officials or former legislatures, and adds that the majority opinion in this respect is clearly error and appears to be in direct conflict with the decisions of this Court as well as decisions of Circuit Court of Appeal and State Courts cited in the brief. Respondent believes that the opinion or that part of the opinion quoted by Petitioner at page 60 of its brief does not hold that Puerto Rico is estopped to enforce its statutes limiting the ownership and control of land by domestic agricultural corporations by reason of delay and laches.

Obviously the judgment of the Supreme Court of Puerto Rico was not reversed on the ground of estoppel and Petitioner is not injured by the part of the opinion quoted if there is no intention to forfeit land.

The Circuit Court of Appeals obviously felt that an intending forfeiture (confiscation or alienation of Respondent's land) was contemplated and expressed the opinion that in view of its long tolerance of the violations which Act No. 47 makes a ground of confiscation Petitioner should not be permitted to confiscate the land of defendant corporations under the provisions of Act No. 47 for violations occurring prior to the passage of that Act; in other words, that the penalty of confiscation should not operate retroactively.

Petitioner further states that this is not a case simply of past violations. It appears from the record, however, that Respondent in its motion for cancellation of notices of *lis pendens* alleged "That all of the properties specified in the exhibit attached to the complaint, on the margin of the inscriptions of which notice of the complaint was taken by the Registrar of Property of San Juan, Section Two, were acquired by this Respondent prior to the approval

of Acts Nos. 33 and 47, approved by the Legislature of Puerto Rico on July 22, 1935 (Special Session Laws of 1935, p. 418) and August 7, 1935 (Special Session Laws of 1935, p. 530), respectively" (Rec. p. 60).

This allegation was not denied by Petitioner.

Act No. 47 gave Respondent no term within which to dispose of its land holdings as did the statute under consideration in *Kentucky Union Co.* vs. *Kentucky*, 219 U. S. 140.

And after this proceeding was instituted and notices of *lis pendens* filed Respondent could not dispose of the land nor could it confess judgment until the question of the validity and legality of the penalties imposed by Act No. 47 was decided.

Conclusion.

The decision of the Court below is correct. There is no conflict of decisions and no question of importance calling for a review by this Court.

The petition for a writ of certiorari should be denied.

Respectfully submitted,

HENRI BROWN,
Counsel for Respondent.

JAIME SIFRE, JR.,
Of Counsel.

January , 1940.

APPENDIX.

IN THE

SUPREME COURT OF PUERTO RICO

Num. 1.

QUO WARRANTO.

THE PEOPLE OF PUERTO RICO,
Plaintiff,

vs.

THE FAJARDO SUGAR CO. OF PORTO RICO, THE FAJARDO SUGAR GROWERS ASSOCIATION, AND THE LOIZA SUGAR COMPANY,
Defendants.

Opinion of the Court delivered by Mr. Chief Justice DEL TORO. San Juan, Puerto Rico, June 4, 1936.

Upon the petition of the Attorney General of Puerto Rico, this Court, on January 28 last, authorized the filing of an information in the nature of *quo warranto* in this case, and the defendants were granted until the 28th of the following February to demur, answer, or enter any other proper plea.

On the 5th of February, the plaintiff filed a motion for an inspection and copy of certain books, papers, and documents in the possession or under the control of the defendants, and on the 15th of the same month the latter presented their written oppositions thereto, based, among other grounds, upon the claim that this Court, for various reasons which they stated, had no jurisdiction to act in the matter.

The plaintiff moved to strike out from the oppositions certain questions of law raised therein, among them, those relating to the jurisdiction. Both parties were heard on

this point and the Court ruled that it was not possible to decide the question of inspection while disregarding that of jurisdiction and set March 16, 1936, for further hearing the parties. They were so heard, fully, and in addition they filed briefs in support of their respective contentions, the last of such briefs being filed on May 16, 1936.

What is the question involved? The holding of real estate by agricultural corporations. What does The People of Puerto Rico demand through the Attorney General? That this Court give judgment of ouster from the franchise as against The Fajardo Sugar Company of Puerto Rico and the Loiza Sugar Company, decreeing their immediate dissolution, prohibiting them from continuing to do business in Puerto Rico, and imposing on them the proper fines, and as regards The Fajardo Sugar Growers Association, that the same be adjudged to cease doing business in this Island; together with any other relief which in equity and justice may be proper as against them all.

It is substantially alleged in the information that The Fajardo Sugar Company of Puerto Rico is a corporation organized under the laws of this Island, on February 28, 1919, its objects being to engage in agriculture and the manufacture of sugar and it being stipulated in its articles of incorporation that its right to own or control land in Puerto Rico would be limited to five hundred acres, as provided by section 3 of the Joint Resolution of the Congress of the United States, approved May 1, 1900; and that, notwithstanding this, it acquired all the properties of The Fajardo Sugar Company, a corporation organized under the laws of the State of New York in 1905, engaged in agriculture and the manufacture of sugar in this Island, which, by itself, as well as through the defendant, The Fajardo Sugar Growers Association, had acquired from time to time the ownership or control of land in Puerto Rico in the aggregate amount of about thirty thousand and seven hundred acres.

As regards The Fajardo Sugar Growers Association it is substantially alleged in the information that it is an entity describing itself as a joint-stock association which

was organized under the laws of the State of New York to engage in the growing of sugar cane, and to acquire by purchase, lease, or otherwise, such land as may be necessary to carry out its purposes, and that it having complied with the requirements prescribed by the Private Corporation Act of Puerto Rico, approved March 9, 1911, it was authorized to do business in the Island. Then follow several averments tending to show that it is in fact a corporation.

With respect to the other defendant, Loiza Sugar Company, the information substantially alleges that it is a corporation organized under the laws of Puerto Rico for the purpose of purchasing and leasing land and planting or harvesting sugar cane. As in the case of the defendant first above mentioned, its articles of incorporation specifically provide that its right to own or control real estate, shall be limited to five hundred acres, in accordance with the Joint Resolution of Congress already cited, in spite of which it owned or controlled, on October 6, 1925, about seven thousand thirty-eight acres of land in the Island.

It is further substantially alleged in the information that on October 6, 1925, defendant The Fajardo Sugar Company of Puerto Rico acquired by purchase the entire capital stock of the Loiza Sugar Company, and still controls 99% thereof and thereby manages and controls its business; that by a public deed executed on January 10, 1935, the Loiza Sugar Company conveyed to The Fajardo Sugar Growers Association for the purpose of concealing the identity of the true owner thereof, all the agricultural lands which it held or controlled in Puerto Rico, except some five hundred ninety-eight acres which it still holds and controls in its own name.

Reference is made in the information to certain instruments executed which, as petitioner claims, show the interdependence of the three defendants; and it is textually alleged: "The total amount of agricultural land which is held or controlled at the present time by said defendant, The Fajardo Sugar Company of Porto Rico, either by it-

self or through its subsidiaries, or agencies above mentioned, and upon which it is engaged at present in agriculture, as already stated, amounts to some 23,800 acres."

The information concludes by alleging that the ownership or control by the defendants of lands concentrated into large estates is contrary to the public policy of Porto Rico and is in conflict with the economic welfare of the people of the Island; and it sets forth the facts and circumstances upon which such allegation is based.

The Joint Resolution of which mention has already been made, was approved eighteen days after the territory of Puerto Rico was organized by the Congress of the United States. By its third section, as the same appears on page XXXV of the Revised Statutes and Codes of Puerto Rico, 1902, it is provided as follows:

> "Section 3.—That all franchises, privileges or concessions granted under section thirty-two of said Act shall provide that the same shall be subject to amendment, alteration, or repeal; shall forbid the issue of stock or bonds, except in exchange for actual cash, or property at a fair valuation, equal in amount to the par value of the stock or bonds issued; shall forbid the declaring of stock or bond dividends; and, in the case of public-service corporations, shall provide for the effective regulation of the charges thereof and for the purchase or taking by the public authorities of their property at a fair and reasonable valuation. No corporation shall be authorized to conduct the business of buying and selling real estate or be permitted to hold or own real estate except such as may be reasonably necessary to enable it to carry out the purposes for which it was created, and every corporation hereafter authorized to engage in agriculture shall by its charter be restricted to the ownership and control of not to exceed five hundred acres of land; and this provision shall be held to prevent any member of a corporation engaged in agriculture from being in any wise interested in any other corporation engaged in

agriculture. Corporations, however, may loan funds upon real estate security, and purchase real estate when necessary for the collection of loans, but they shall dispose of real estate so obtained within five years after receiving the title. Corporations not organized in Porto Rico, and doing business therein, shall be bound by the provisions of this section so far as they are applicable."

The word "corporation" used in the original English text was erroneously rendered "*sociedad*" in Spanish. We shall proceed on the assumption that the correct translation is "*corporación*".

On March 1, 1902, the Legislative Assembly created by the Organic Act of April 2, 1900, enacted a law establishing *quo warranto* proceedings, and on March 9, 1911, another law entitled "AN ACT to establish a law of private corporations." Both laws were in force at the time that the defendant corporations, The Fajardo Sugar Company and Loiza Sugar Company, were organized and commenced to do business in this Island, and under the provisions of the second of these laws the other defendant was authorized to do business in our community.

Section 2 of the first of the said laws provides, in its pertinent part, "That in case * * * any corporation does or omits any act which amounts to a surrender or forfeiture of its rights and privileges as a corporation, or exercises rights not conferred by law, the Attorney General or any fiscal of the respective district courts, either of his own accord or at the instance of any individual relator, may present a petition to the district court of competent jurisdiction, for leave to file an information in the nature of *quo warranto* in the name of The People of Puerto Rico. * * *"

Section 6 provided:

"In case any person or corporation against whom any such petition is filed, or adjudged guilty, the court may give judgment of ouster against such person or corporation from the office or franchise, and fine such

person or corporation for usurping, intruding to, or unlawfully holding and executing such office or franchise, and also give judgment in favor of the relator for the costs of the prosecutions; *Provided*, That instead of judgment of ouster from a franchise, the court may fine the person or corporation found guilty in any sum not exceeding five thousand dollars for each offense."

Section 3 of the Private Corporation Act in so far as now pertinent says:

"Section 3. Every corporation has power:

* * * * *

"4. To acquire and to hold in any legal manner and to transfer such property, both real and personal, as the purposes expressed in the articles of incorporation may require, and to mortgage such property with its franchises: *Provided, however*, That the power of any agricultural corporation organized under this act to hold real estate shall be subject to the prohibition contained in section three of the joint resolution of the Congress of the United States, of May first, nineteen hundred." Laws of 1911, page 87.

Accordingly, in deciding that the question of the holding by a corporation of lands in excess of five hundred acres was not a proper one to be raised by a registrar of property or to be considered and determined within an administrative appeal taken from a decision of such registrar, this Court, after a careful study of the Organic Act of 1900 and of the applicable jurisprudence, said:

"So that ample provision is made in the law by which any violation of the Organic Act may be thoroughly investigated and prosecuted by the Attorney General. If there is any doubt how far the powers of the registrar extend, it is made clear by the provisions of the Organic Act and by section 73 of the Political Code. The Attorney General is the exclusive officer in whom

is confided the right to initiate proceedings for escheat or attack the right of a corporation to hold land. Without some such judicial or quasi-judicial proceedings a corporation might be deprived of some of its property rights without due process of law." *Compañía Azucarera de Carolina* v. *Registrar of Property*, 19 P. R. R. 143, 151-152 (153).

Similarly, in referring to the above and other decisions to the same effect, it has recently declared:

> "Ever since that time, or more than twenty years ago, the Judicial Power has spoken with entire clearness and has shown the way. The Federal and the Insular, Executive and Legislative Powers, and the community in general were advised. They are the ones who are called upon to act." *Baetjer* v. *Registrar*, 48 P. R. R.,

The Joint Resolution of 1900 is still in full force and effect. In enacting, in 1917, the second Organic Act for Puerto Rico, which is the one now in force, Congress provided by section 39 of the Act:

> "That nothing in this Act contained shall be so construed as to abrogate or in any manner impair or affect the provision contained in section three of the joint resolution approved May first, nineteen hundred, with respect to the buying, selling, or holding of real estate." Laws of Porto Rico, 1917, volume 2, p. 54.

The *Quo Warranto* Act was amended in 1931 and in 1935. The amendment of 1931 is of no importance. In 1935, there were enacted two amendatory laws. The first one, Act No. 33 of July 22, 1935, in its pertinent part, literally copied, reads as follows:

> "An Act to confer upon the Supreme Court of Puerto Rico exclusive original jurisdiction in *Quo Warranto* proceedings that the Government of Puerto Rico may institute for violations of the provisions of section 752, Title 48, United States Code, and for other purposes.

"*Be it enacted by the Legislature of Puerto Rico:*

"Section 1.—There is hereby conferred upon the Supreme Court of Puerto Rico exclusive original jurisdiction to take cognizance of all *Quo Warranto* proceedings that the Government of Puerto Rico may hereafter institute for violations of the provisions of Section 752, Title 48, United States Code, and for that purpose it is provided that the violation of said provisions shall constitute sufficient cause to institute a proceeding of the nature of *Quo Warranto.*"

The second, Act No. 47, approved August 7, 1935, in so far as now pertinent, also textually transcribed, reads thus:

"An Act to amend sections 2 and 6 of 'An Act establishing *Quo Warranto* proceedings, approved March 1, 1902, as amended by Act No. 37, approved April 24, 1931, and for other purposes:

"*Be it enacted by the Legislature of Puerto Rico:*

"Section 1.—Section 2 of An Act entitled 'An Act establishing *Quo Warranto proceedings*', approved March 1, 1902, is hereby amended as follows:

"Section 2.—In case any person should usurp, or unlawfully hold or execute any public office or should unlawfully make use of any franchise, or likewise shall hold any office in any corporation created by and existing under the laws of Puerto Rico, or any public officer shall have done or suffered any act which, by the provisions of the law, involves a forfeiture of his office, or any association or number of persons shall act within Puerto Rico as a corporation, without being legally incorporated, or any corporation does or omits any act which amounts to a surrender or forfeiture of its rights and privileges as a corporation, or exercises rights not conferred by law, the Attorney General, or any prosecuting attorney of the respective district court, either on his own initiative or at the instance of

another person, may file before any district court of Puerto Rico a petition for an information in the nature of *Quo Warranto* in the name of The People of Puerto Rico; or whenever any corporation, by itself or through any other subsidiary or affiliated entity or agent, exercises rights, performs acts, or make contracts in violation of the express provisions of the Organic Act of Puerto Rico or of any of its statutes, the Attorney General or any district attorney, either on his own initiative or at the instance of another person, may file before the Supreme Court of Puerto Rico a petition for an information in the nature of *Quo Warranto* in the name of The People of Puerto Rico; * * *.

"'When any corporation by itself or through any other subsidiary or affiliated entity or agent is unlawfully holding, under any title, real estate in Puerto Rico, The People of Puerto Rico may, at its option, through the same proceedings, institute in its behalf the confiscation of such property, or the alienation thereof at public auction, within a term of not more than six months counting from the date on which final sentence is rendered.

"'In every case, alienation or confiscation shall be through the corresponding indemnity as established in the law of eminent domain.'

"Section 2.—Section 6 of An Act entitled 'An Act establishing Quo Warranto proceedings,' approved March 1, 1902, is hereby amended as follows:

"'Section 6.—In case any person or corporation against whom any such petition is filed, is adjudged guilty, the court may give judgment of ouster against such person or corporation from the office or franchise to which the petition refers, and fine such person or corporation for usurping, intruding in, or unlawfully holding and executing such office or franchise, and also give judgment in favor of the defendant for the costs of the prosecutions; * * *.

"'Whenever, in the opinion of the court, it is satisfactorily established that the corporation or corporations have performed acts or exercised rights not conferred by law, or in violation of the express provisions thereof, the judgment entered shall, in case the defendant is a domestic corporation, decree the dissolution thereof and the prohibition to continue doing business in the country; and in the case of a foreign corporation, the nullity of all acts done and contracts made by the defendant corporation or entity; and in addition, said judgment shall decree the cancellation of every entry or registration made by the said corporations in the public registries of Puerto Rico; and when the decree of nullity affects real property and The People of Puerto Rico has chosen to confiscate it or orders it sold at public auction, the final judgment shall fix the reasonable price to be paid for said property. For these purposes, the just value of the property subject to alienation or confiscation shall be fixed in the same manner as it is fixed in cases of condemnation proceedings.

"'The violation of an order prohibiting the doing of business after final judgment is rendered shall be punished by a maximum fine of five hundred (500) dollars for each day such entity may continue in operation, enforceable on the property of the entity, and the persons representing it shall be guilty of contempt of court, punishable by imprisonment for a minimum term of from one to six months in jail.

"'Whenever judgment is rendered in favor of any defendant, such defendant may recover costs from the plaintiff, including a reasonable attorney's fee.

"'For the purpose of fixing the value of the property, The People of Puerto Rico, through its agents or representatives, is authorized to enter the properties the object of the controversy, whatever their nature or condition may be.'"

Such are the facts and the laws involved in this case.

The procedure to be followed was fixed by the Legislature. The jurisdiction of this Court seems to be something not subject to any doubt. Yet, everything has been questioned in a manner so complicated and laborious that it has been no easy task to revert to the first impression.

The Fajardo Sugar Growers Association maintains that it is not a corporation and that, not being one, it can not be charged with the violation of any law by reason of its owning or controlling more than five hundred acres.

Conceding without holding that this is so, it is no obstacle, in view of the acts charged against this entity in the information, to our concluding that it has properly been brought into court. If the Court has jurisdiction to pass upon the acts committed by the other two defendants, whose corporate character is beyond question, it also has jurisdiction to pass upon its acts, since all such acts, it is alleged, are so interrelated that they constitute a single transaction.

In view of the terms of the information, the central entity violating the law appears to be the defendant, The Fajardo Sugar Company of Porto Rico. Defendants The Fajardo Sugar Growers Association and Loiza Sugar Company are, according to the information, its subsidiaries; they constitute the agencies employed for controlling and holding land in excess of the amount permitted by the law and by its own articles of incorporation, or franchise. At this stage of the proceeding, we must be guided by the allegations of the information.

Defendant The Fajardo Sugar Company attacks Acts Nos. 33 and 47 of 1935 as being unconstitutional because, in its judgment, they amend the Joint Resolution of 1900 enacted by Congress and invade the legislative sphere reserved to the latter; because the Legislature of Puerto Rico has no power to impose penalties for violations of the laws of the United States; because they contain more than one subject and subjects not clearly expressed in their titles; because they revise, amend, or extend provisions of the laws of the United States and of Puerto Rico without re-

enacting and publishing at length such laws; because Act No. 47 is an *ex post facto* law, impairs the obligation of contracts, and deprives the defendant of due process of law; and because both acts are so indefinite as to be rendered void.

The defendant Loiza Sugar Company sets up similar objections to the above, and in addition it maintains that the Joint Resolution of Congress is unconstitutional as being discriminatory and arbitrary.

Under the view we have taken of the case, the consideration and decision of all questions raised relating to the imposition of new penalties by the said laws can and should be dispensed with for the present, confining ourselves to the examination and determination of the question whether such laws could confer and did confer upon this Court original jurisdiction to take cognizance of *quo warranto* proceedings brought against corporations holding lands in excess of the authorized amount.

It is provided in the eighth and ninth paragraphs of section 34 of our Organic Act that:

> "No bill except general appropriation bills shall be passed containing more than one subject, which shall be clearly expressed in its title; but if any subject shall be embraced in any act which shall not be expressed in the title, such act shall be void only as to so much thereof as shall not be so expressed.
>
> "No law shall be revived, or amended, or the provisions thereof extended or conferred by reference to its title only, but so much thereof as is revived, amended, extended, or conferred shall be reenacted and published at length."

We know the titles of Acts Nos. 33 and 47. The first of these titles begins thus: "An Act to confer upon the Supreme Court of Puerto Rico exclusive original jurisdiction in *Quo Warranto* proceedings. * * *" It is conclusive. The second begins as follows: "An Act to amend sections 2 and 6 of 'An Act establishing *Quo Warranto*

proceedings. * * *." The amendment includes the jurisdiction. The constitutional precept has been substantially complied with.

But it is insisted that Act No. 33 conferred jurisdiction to take cognizance of violations of a law of Congress and Act No. 47 amended the said law by imposing penalties, as to all which the Insular Legislature has no power.

It is evident that the Legislative Assembly of Puerto Rico has no power to invade the sphere of action of Congress, nor to amend any Federal statute. Therefore, should Acts Nos. 33 and 47 have the effect of invading that sphere or amending the Joint Resolution of May 1, 1900, they would be without any validity. But in our judgment, in so far as the question of jurisdiction is concerned, the said acts do not invade the field reserved to Congress, nor to amend its Joint Resolution cited. Whether such invasion has occurred as regards the new penalties is a separable question, which, as we have stated, need not be now considered.

Puerto Rico is a fully organized territory. It has many of the attributes of, and may be compared in some respects to, a state of the Union. In the exercise of its legislative powers, it enacted the Private Corporation Act to which we have previously referred, and all corporations organized under such act remain subject thereto.

It is incumbent on Puerto Rico not only to enact, as it enacted, laws regarding corporations, but also to watch for their execution. For this reason it enacted, in 1902, the law establishing *quo warranto* proceedings; a law of which the defendants had knowledge and to whose provisions they were subjected from the moment they were organized and began to act.

The Loiza Sugar Company alleges that "the limitation arising from the Joint Resolution of 1900 does not merge into the local articles of incorporation nor lose its source, identity, or character as a restriction imposed by the Congress of the United States."

It must be conceded that the limitation as to the holding of lands by corporations had its origin in the Joint Resolution of Congress; but this circumstance, as the plaintiff says, "has nothing to do and should never be confused with the body of juridical relations arising therefrom and which is the one having a bearing upon the solution of the questions at issue in this proceeding. Within the limits of the Constitution of the United States ("constitution" in the broad sense which includes governmental traditions), due to a most delicate adjustment, there coexist, without friction and within their respective spheres, a federal government and the governments of the states and territories. In order to preserve that fine balance and the separation of powers, the federal government takes great care not to interfere in purely local matters pertaining to the states or the territories. For instance, the federal government never interferes directly in the regulation of corporations created or authorized to do business by the state or territorial sovereignties."

As an aid to clearly establishing that in the case of Puerto Rico the American tradition of government was followed, it seems advisable to transcribe below what was said by the Supreme Court of the United States, speaking through Mr. Justice Moody, in *Martinez* v. *Asociación de Señoras Damas del Santo Asilo de Ponce*, 213 U. S. 20, 25, thus:

> "By the treaty of peace (30 Stat. 1754), Spain ceded Puerto Rico to the United States and thereby parted with all sovereignty over that island. Careful provision was made that the cession should not impair the property or rights of corporations, associations or individuals. Article VIII. It is clear, however, that thereafter the duty to protect property and rights within the ceded territory rested upon the United States. An opportunity was afforded to Spanish subjects, natives of the peninsula, to preserve their allegiance to the crown of Spain by making within a limited time a declaration to that effect. Article

IX. This article obviously had no reference to corporations. No other provisions of the treaty seem relevant to the question before us.

"We are of opinion that the cession of Porto Rico by Spain to the United States severed all relations between Spain and this corporation, and that thereafter it cannot be regarded in any sense as a citizen or subject of Spain. Spain has no duty to or power over it. * * *

"The next question is whether the plaintiff corporation is a citizen of the United States. Its status during the period between the cession and the passage of the act to provide a civil government for the island need not be determined. That act created a form of government for Porto Rico and its adjacent islands, in which there was exhibited, with some modifications, the characteristic American separation of the legislative, executive and judicial powers * * * and the scope of the legislative power is fully described in paragraph 32, as follows:

"'That the legislative authority herein provided shall extend to all matters of a legislative character not locally inapplicable, including power to create, consolidate, and reorganize the municipalities, so far as may be necessary, and to provide and repeal laws and ordinances therefor; and also the power to alter, amend, modify, and repeal any and all laws and ordinances of every character now in force in Porto Rico, or any municipality or district thereof, not inconsistent with the provisions hereof: *Provided, however,* That all grants of franchises, rights, and privileges or concessions of a public or *quasi*-public nature shall be made by the executive council, with the approval of the governor, and all franchises granted in Porto Rico shall be reported to Congress, which hereby reserves the power to annul or modify the same."

"In the form of government, which is typically American, the creation and control of corporations is exclusively a legislative function. We are of opinion that the effect of the organic act is to intrust that function, so far as it relates to a corporation of the kind under consideration, whose essential qualities need not be repeated, to the government of Porto Rico; and that such corporation is now, if a citizen of any country, a citizen of Porto Rico. We need not consider whether the corporation has more than a *de facto* existence, subject to the will of the Porto Rican legislature."

This holding of the Supreme Court remains applicable even after the enactment of the second organic act, as what Congress did by such act was to continue carrying out its clear purpose to establish in this Island a typically American form of government.

Guided by that rule, we think that the plaintiff is right when it maintains, referring to the Joint Resolution of Congress, that "it is a statute of a purely constitutional character; an amendment to our Organic Act having no other function or scope than to limit the power delegated to our Legislature to create and regulate the juridical persons engaged in agriculture".

As an indication that Congress reserved to itself the power to regulate its prohibition, the defendants strongly rely upon the provisions enacted in the second part of paragraph second of section 39 of the Organic Act of 1917, thus:

"That the Governor of Porto Rico shall cause to have made and submitted to Congress at the session beginning the first Monday in December, nineteen hundred and seventeen, a report of all the real estate used for the purposes of agriculture and held either directly or indirectly by corporations, partnerships, or individuals in holdings in excess of five hundred acres."

However, it is a fact that the amendment, as originally offered and as adopted by the Senate, contained at the end

of section 39 the following provision: "That the right to legislate further upon this subject is reserved to Congress." (Congressional Record, February 10, 1917, p. 3385.) The House disagreed. The Senate acquiesced. (Id., February 23, p. 3995.) Thereupon this provision was stricken out and the act approved in the form known to us.

The resolution provides:

> "* * * and every corporation hereafter authorized to engage in agriculture shall by its charter be restricted to the ownership and control of not to exceed five hundred acres. * * *"

The Organic Act as a whole shows that Congress was establishing a territorial form of government, endowed with the same control over the corporations created by it or doing business within its limits as might be possessed by a state or any other territory. Consequently, since the franchises are granted by Puerto Rico and its Government has control over the corporations existing within its limits, the inference is unavoidable that a violation of the franchise or the holding of land in excess of five hundred acres, is a local question. It is inconceivable that violations of a corporate character or of the Organic Act should be excluded from the control of Puerto Rico. It might be equally possible to say that a violation of the so-called "bill of rights" is a matter of exclusive federal jurisdiction, and similarly in regard to any other provision of the Organic Act.

The question of whether the Insular Legislature could confer on this Supreme Court original jurisdiction is one which we regard as settled in the affirmative by the law and the jurisprudence. Section 40 of the Organic Act of 1917. *Municipality of Ponce* v. *Roman Catholic Church*, 210 U. S. 296.

The case of *Ferris* v. *Higley*, 87 U. S. 375, invoked by defendant The Fajardo Sugar Company, does not change our views. It has been extensively analyzed and discussed by the plaintiff in its second brief (Record, pp. 10-16; 783-789). We have nothing to add thereto.

As regards the contention that the Legislature of Puerto Rico can not deprive the Federal Court of jurisdiction, it will suffice to say that the fact that by Act No. 33 exclusive jurisdiction is conferred on this Court, can not and should not be interpreted in the sense of impairing any concurrent jurisdiction which the Federal Court may have. The term used, when correctly interpreted, applies solely to those courts which the Legislature has power to organize or reorganize, that is, the Insular courts. Statutes should be interpreted with a view to vitalizing them, unless they really violate the paramount law, the Constitution.

Lastly, and without going into a detailed discussion, we will say that, in our judgment, the Joint Resolution of Congress of May 1, 1900, is neither discriminatory nor arbitrary in itself, or to any extent rendering the same unconstitutional.

In constituting the Island of Puerto Rico into an organized territory, Congress thought that, in view of its territorial extent, its lands might be monopolized by one or more powerful corporations and; considering that this result might be harmful to its future development, it fixed its policy on the matter by prescribing a limitation on the powers of the new-born Legislature, which was to have charge of the enactment of laws respecting corporations.

Corporations may be restricted by a constitution. We fail to see, especially in an agricultural community, that a limitation as to the number of acres that may be controlled by a corporation engaged in agriculture, or the prevention of an agricultural monopoly, constitutes an unjust discrimination. And nothing has been cited to us showing that the unrestricted privilege existing in regard to other persons or corporations causes any prejudice.

It may be argued whether the limit of five hundred acres was or was not wisely chosen, but not that it is unreasonable. If the manufacturing business is separated from the agricultural business, it is possible to conceive the establishment of corporations which will erect and operate great factories for the extraction of sugar from cane, grown in

dependently by tens or hundreds of individuals or corporations engaged in this work upon their directly managed lands, thereby increasing business activity and multiplying the number of efficient, self-supporting citizens and families which, in well-organized communities, constitute the safest and most stable foundation for a normal and orderly progressive life.

The fact that for corporations engaged in agriculture there should have been fixed a definite limitation—five hundred acres—leaving the determination of that pertaining to other corporations to such as may be reasonably necessary to carry out their objects, does not involve a discrimination.

It is difficult to conceive how the other corporations will need five hundred acres of land for the erection of their factories, for the development of their business; but perhaps one of them, for instance, one engaged in the mining business, might find it necessary to extend its holdings in consequence of its investigations, and in such a case it would indeed be unreasonable to destroy the unity of exploitation by virtue of a previously fixed limitation.

By reason of the foregoing and all that appears from the record itself, the objections raised by the defendants to the jurisdiction of this Court must be overruled and the case ordered to be proceeded with in accordance with the law.

(Sgd.) EMILIO DEL TORO,
Chief Justice.